

EXECUTIVE OFFICER SUMMARY REPORT  
April 11, 2001

ITEM: 5

SUBJECT: Complaint No. 2000-256 for Administrative Civil Liability (ACL) against Chung Kwan and Hui Mei Hsu for failure to submit a corrective action plan for the Budget Trade & Gas facility, Escondido, San Diego County. (Sue Pease)

PURPOSE: The purpose of this item is to reopen the public hearing held on December 13, 2000, to receive additional testimony on ACL Complaint No. 2000-256.

DISCUSSION: Complaint No. 2000-256 recommends the imposition of an ACL of \$146,500 against Mr. and Mrs. Hsu for failure to submit a corrective action plan for remediation of groundwater pollution as required by California Water Code (CWC) section 13267. The period of the violation was February 10, 2000 through December 13, 2000. Evidence on the ACL complaint was accepted into the record at the December 13 hearing.

At the conclusion of the December hearing, the RWQCB deferred acting on the ACL complaint against Mr. & Mrs. Hsu until the February meeting. Mr. Hsu was given until the February meeting to accomplish the following tasks:

1. Submit a Corrective Action Plan; and
2. Submit a payment on the previously assessed ACL penalty of \$35,680.

A corrective action plan was received on January 30, 2000. The corrective action plan has been conditionally approved and the needed changes discussed with Mr. Hsu. A payment of \$200 on the previous ACL penalty was received on February 15, 2001 and a payment of \$150 was received on March 28, 2001. Mr. Hsu intends to make monthly payments, and has stated that due to his financial situation, \$100 to \$200 per month is all he can afford.

Another issue to consider in this matter is Mr. and Mrs. Hsu's compliance with Cleanup and Abatement Order (CAO) No. 2000-255, issued on November 7, 2000. As of March 28, 2001, Mr. Hsu has complied with some of the requirements of CAO

No. 2000-255, and not with others. Free product removal has been occurring and reports have been submitted each month as required by CAO No. 2000-255. Delineation of the extent of ground water contamination was to be completed by March 21, 2001. Drilling was attempted on March 14, 2001, however due to difficulties with the drilling the assessment of ground water contamination has not been completed. On March 27, 2001 an amended proposal to assess the extent of ground water contamination was submitted, with proposed drilling dates of April 25-27, 2001.

To overcome communication difficulties for Mr. Hsu and to ensure that Mr. Hsu understands the regulatory actions required of him, staff met with Mr. Hsu and his consultant on January 23, 2001 (Supporting Document 1). A second meeting was held on February 14, 2001, with a Mandarin Chinese translator to help Mr. Hsu understand what was discussed (Supporting Document 2). At this meeting Mr. Hsu submitted financial documents (Supporting Document 3) to demonstrate that, if imposed, ACL 2000-256 would place a financial burden on him that could cause bankruptcy. Staff requested that Mr. Hsu write a summary of each document explaining the document's significance. By March 28, 2001, this summary had not been submitted. A Mandarin Chinese translator will be present at the April 11, 2001 Regional Board meeting.

**LEGAL CONCERNS:**

None

**SUPPORTING  
DOCUMENTS:**

The previously agenda package sent for agenda item 11 for the March 14, 2001 Regional Board meeting was not included as an agenda package for the April 11, 2001 Regional Board meeting due to the volume of material. The documents are applicable for Item 5 of the April 11, 2001 Regional Board meeting. They are:

Supporting Document 1 – January 23, 2001 memo to file  
Supporting Document 2 – February 14, 2001 memo to file  
Supporting Document 3 – Mr. Hsu's financial documents which include:

- a) lawsuit brought by the GE Capital Small Business Finance Corporation to foreclose on the Budget Trade & Gas property due to nonpayment on loan;
- b) lawsuit of Chung Kwan Hsu vs. First Pacific National Bank et. al. to recover money from the account of E.T. Oil. Mr. Hsu claims that E.T. Oil did not pay State of California excise taxes.;
- c) lawsuit brought by Edward Babcock and Escondido Saw Works for contamination that originated on Mr. & Mrs.

Hsu's property and migrated under Escondido Saw Works property;

- d) attorney fees for UST problem on property located on El Cajon Blvd.;
- e) a total amount of money lost from supporting documents 4b, 4c, and 4d;
- f) 1998 and 1999 personal and corporate tax returns;
- g) bank statements from August 2000 through November 2000;
- h) residential mortgage credit report;
- i) Gateway Title Company report;
- j) Residential lease;
- k) Letter to Board members; and
- l) photocopy of check submitted for payment on previously assessed ACL.

**RECOMMENDATION:**

Staff recommends a continuation of this item until August 2001 Regional Board meeting to better assess Mr. Hsu's compliance with CAO No. 2000-255 and his intention to make payments on the previously assessed ACL.